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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,293	03/12/2004	Ramon Tam	0212.69015	8247

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GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Drive
Chicago, IL 60606

EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,293

Applicant(s)

TAM ET AL.

Examiner

Steven M. Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,10,11,13-23 and 27 is/are rejected.
- 7) ☒ Claim(s) 5,6,8,9,12 and 24-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the third office action for U.S. Application 10/802,408 for a Collapsible Rolling Stand filed on March 12, 2004. Claims 1-28 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 27, 2006 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites the limitation "the cross bridge" in the 7th to the last line of page 5 of the claims. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

Claims 1-4, 7, 10, 13, 18-23, 27, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,087,013 to Gress et al. Gress et al. discloses a collapsible rolling stand with a front-end portion and a rear end portion. The stand can be manipulated between open and closed positions and has a top frame with a generally planar portion (20 or 24) configured to have an object secured thereto in a way such that the top planar portion is generally vertical when the stand is in the closed position and generally horizontal in an open position. There is a folding mechanism that supports the top frame with a handle (42) operatively connected to one end portion of a pair of spaced apart elongated first members (48a) that have opposite end portions defining contact points with the ground, and a pair of spaced apart second members (56) with wheels for enabling a user to roll the stand. The first and second members are pivotally connected to one another and configured such that the weight of an object provides a substantial portion of the necessary force needed to pivot the first and second pairs of members to further separate the forward contact point from the rear wheels and move the stand from the closed position to the open positions wherein the top frame planar portion is substantially horizontal. The first members are located on each side of the stand and are operatively connected to and pivotable relative to a rear portion of the top frame planar portion. Each of the second members has a pivot connection(62) to one of the first members at a point intermediate the ends of the first member, each second member having one of the wheels connected to a rearward end portion thereof and an extension located forwardly of the pivot connection at a

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predetermined angle between 40 and 90 degrees relative to the lengthwise direction of the second member. There is a link member (72,74) pivotally attached to the distal end of the extension and to the top frame planar portion and a handle (42) connected to the planar portion. There is a locking mechanism (40) for releasably holding the stand in the closed position wherein actuating the locking mechanism enables the second member to pivot about the pivot connection causing the weight of the object to move the wheels a short distance away from the top frame planar portion, further movement of the stand in the rearward direction causing the second members and wheel to rotate toward the rear of the stand to the open position where the top frame planar portion is oriented in the substantially horizontal position.

The handle extends between and is connected to both first members and the cross member is positioned at an elevation below the top frame planar portion (at 44) and has a curved shape upwardly from the first members. The first members have a generally transverse extension (53) at the ground engaging opposite ends and at least one front end bridge (50) interconnecting the ends. The stand could support a circular saw and the top frame planar portion includes two side frame members (the sides) and two end frame members (the ends) interconnected in a generally planar rectangular configuration. There is at least one stop member (49) connected to each second member for contacting the first member limiting the pivoting movement there between during the opening of the stand so that the top planar portion is held in the generally horizontal position. There is also a link member (26, 28) pivotally attached to the distal end of the rear leg extension and the frame portion, as well as main side struts (54, 56,

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60), and the top frame includes an outwardly directed extension with a slot one each side thereof (at 74) for receiving an end of a link member. The first and second members are configured so that the weight of an object can provide a substantial portion of the necessary force needed to pivot the first and second pairs of members to move the stand from the open position to the closed position, wherein the top frame planar portion is in a generally vertical orientation.

Claims 1 and 14-16 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,927,745 to Cunningham. Cunningham discloses a collapsible support stand that can be used with an elongated normally horizontally oriented object attached thereto. The stand has a front and a rear end portion, and being capable of being manipulated between open and closed positions. The stand has a top frame (14 and 62) with a generally planar portion (the top or 62) configured to have an object secured thereto. The top frame planar portion is generally vertical when the stand is in its closed and generally vertical position. There is a folding mechanism (16) supporting the top frame and including at least one handle (58) operatively connected to one end portion of a pair of spaced apart elongated first members (64 and 86) that have opposite ends defining contact points with the ground and a pair of spaced apart second members (68 and 90) each having wheels (42) for enabling a user to roll the stand. The first and second members are pivotally connected (at 66 and 88) to one another and configured so that the weight of the object provides a substantial portion of the necessary force needed to pivot the first and second pairs of members to further separate the forward contact point from the rear wheels and move the stand from the closed position to the

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open position, wherein the top planar portion is substantially horizontal. There is a spring (106 or 134) for biasing the stand toward its closed position when in its open position, such that an operator is not required to exert more than a small force to move the stand to its closed position. The spring is substantially unloaded when the stand is in its closed position.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham. Cunningham does not specifically disclose the spring as having one end connected to the first and second members, but rather is only connected to one member. However, the spring is attached to a stationary object connected to the other member, and one of ordinary skill in the art at the time of the present invention would have known to alternate the location of the spring to an external location to provide easy access as a matter of engineering preference.

Allowable Subject Matter

Claims 11 and 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 5, 6, 8, 9, 12, and 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed July 27, 2006 have been fully considered but they are not persuasive. In response to applicant's arguments, the recitation "for use with an elongated normally horizontally oriented object" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the object and the orientation of the object) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant also argues that the object is never vertically oriented, but figure 4 shows the object in a vertical orientation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (571) 272-6819. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Shm

Steven M. Marsh

November 10, 2006

Kimberly Wood
KIMBERLY WOOD
PRIMARY EXAMINER
KIMBERLY WOOD
PRIMARY EXAMINER